

NUCLEAR CORPORATION OF NEW MEXICO

IBLA 74-32

Decided February 11, 1974

Appeal from decisions of the New Mexico State Office, Bureau of Land Management, rejecting in part applications for oil and gas lease offers (NM 17292, NM 17293, NM 17295, NM 17296).

Vacated and Remanded.

Oil and Gas Leases: Applications: Generally--Rules of Practice: Appeals--Rules of Practice: Evidence

Where oil and gas lease offers have been rejected as to 4,000 contiguous acres because the Forest Service, the agency having surface jurisdiction over the public lands in issue, objected to the issuance of leases due to the excessive slopes of the land, the Board may take official notice of the topographic maps of the area furnished by the Geological Survey, and where such maps do not indicate that the entire area rejected has such excessive slopes as to preclude any oil or gas operations, the case will be remanded to afford the Forest Service an opportunity to reevaluate the situation.

APPEARANCES: Garrett R. Quintana, President, Nuclear Corporation of New Mexico, for appellant.

OPINION BY MR. STUEBING

Nuclear Corporation of New Mexico has appealed from four decisions of the New Mexico State Office issued May 22, 1973, rejecting in part its applications for oil and gas lease offers for unsurveyed public lands situated in the Santa Fe National Forest. The Forest Service, United States Department of Agriculture, which has jurisdiction over the surface lands applied for,

objects to the issuance of the leases because the environmental analysis reflects that excessive slopes and the inability of the soil to recover from disturbance precludes the issuance of the leases. The area of the lands eliminated from the offers is 4,000 acres, all of which are contiguous.

We have taken official notice of the topographic maps of the area furnished by the United States Geological Survey. 1/ See 43 CFR 4.24(b). On the basis of what they indicate we cannot confirm that the entire area which was rejected consists of such excessive slopes as to preclude any oil and gas exploration and development operations. Even conceding that some of the slopes are too steep to permit such activity, this factor does not require that the area be eliminated from leasing. Stipulations for the protection for the slopes can be incorporated into the lease as necessary, up to and including prohibition against surface occupancy or use.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision is vacated and the case is remanded to the State Office to afford the Forest Service an opportunity to reevaluate the situation and to offer alternative recommendations consistent with this opinion.

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Edward W. Stuebing, Member

We concur:

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Joseph W. Goss, Member

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Anne Poindexter Lewis, Member

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1/ Maps have been incorporated into the file for future reference and use.

